

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CHARLES ANTHONY MURPHY	§	PLAINTIFF
	§	
VERSUS	§	CAUSE NO. 1:10cv305-LG-RHW
	§	
HARRISON COUNTY, MISSISSIPPI,	§	
SHERIFF MELVIN BRISOLARA,	§	
WARDEN DONALD CABANA, DR.	§	
REDDIX, PAT ORTEM, and	§	
KENISSIA CLARK, a/k/a KANESHA	§	
CLARK	§	DEFENDANTS

**ORDER ADOPTING IN PART AND MODIFYING IN PART
PROPOSED FINDINGS OF FACT AND RECOMMENDATION**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [35] of United States Magistrate Judge Robert H. Walker, entered in this cause on December 14, 2010, in which he recommends dismissing Defendants Dr. Reddix and Pat Ortem with prejudice for failure to state a claim. Plaintiff Charles Anthony Murphy has not filed objections to the Magistrate Judge's recommendations. The Court record indicates Murphy called the Clerk's office on January 5, 2011, stating that he would be mailing a change of address notice. To date, that new address has not been received.

The Court finds that the Magistrate Judge properly recommended that Dr. And Ortem Reddix be dismissed. Since the basis for dismissal is failure to state a claim, however, the Court finds that they should be dismissed without prejudice. After referral of hearing by this Court, no objections having been filed as to the Proposed Findings of Fact and Recommendation, and the Court, having fully reviewed the same

as well as the record in this matter, and being duly advised in the premises, finds that said Proposed Findings of Fact and Recommendation should be modified to reflect that the dismissal shall be without prejudice. The remainder is adopted as the opinion of this Court.

IT IS THEREFORE ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation [35] of United States Magistrate Judge Robert H. Walker, entered on December 14, 2010, be, and the same hereby is, adopted in part and modified in part as the finding of this Court. Defendants Dr. Reddix and Pat Ortem are hereby dismissed without prejudice.

SO ORDERED AND ADJUDGED this the 18th day of January, 2011.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.

UNITED STATES DISTRICT JUDGE